

RECEIPT #
AMOUNT \$ 156.00
SUMMONS ISSUED N/A
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. M
DATE 5-21-04

FILED
UNITED STATES DISTRICT COURT CLERKS OFFICE
FOR THE DISTRICT OF MASSACHUSETTS

2004 MAY 21 A 11:23
CIVIL ACTION NO.

U.S. DISTRICT COURT
DISTRICT OF MASS.

LEON ROBINSON,
Plaintiff

v.

THOMAS MENINO¹, PAUL F.
EVANS, JAMES WYSE,
MICHAEL PRIMM, JOHN A.
MARTEL, WAYNE ROCK,
GARRETT MITCHELL,
CHARLES HARDY, AMERICAN
BROADCASTING CO., INC.,
HEARST-ARGYLE STATION
INC., WCVB TV (Channel 5,
Boston) DENNIS MCCARTHY
AND JOHN DOE I,
Defendants

04cv11023 RCL

MAGISTRATE JUDGE Cohen

NOTICE OF REMOVAL
(Pursuant to 28 U.S.C. §1441)

Defendants Paul F. Evans, James Wyse, Michael Primm, John Martel, Wayne Rock, Garrett Mitchell and Charles Hardy petition, pursuant to 28 U.S.C. §1441, for removal from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts the action entitled *Leon Robinson v. Thomas Menino et al.*, currently pending in Suffolk County as Civil Action No. 02-0377.

1. This action alleges that Defendants violated the federal civil rights of Plaintiff, Leon Robinson, by unlawfully entering his residence without a valid search warrant nor had his consent or permission to allow defendants into his residence on February 21, 2001. Plaintiff further makes claims for the illegal seizure of plaintiff's possessions and for photographic images taken of his residence.

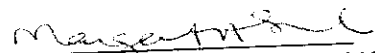
¹ Mayor Thomas Menino has been voluntarily dismissed from the case pursuant to Rule 41(a)(1)(i) of the Massachusetts Rules of Civil Procedure.

2. Plaintiff also specifically alleges that Defendants violated his civil rights guaranteed by the Fourth Amendment, 42 U.S.C. §1983 and the Massachusetts Civil Rights Act, M.G.L. ch.12, § III. Additionally, the Plaintiff asserts a claim of trespass. This action clearly “arises under the Constitution treaties or laws of the United States” and is therefore removable under 28 U.S.C. §1441;
3. A fair reading of the facts and theories as a whole make it apparent that federal constitutional law and issues are an essential part of the case and therefore, Defendants have the statutory right to remove this action;
4. This Notice of Removal is being filed within thirty (30) days of service upon Defendants; and
5. The Co-Defendants, Hearst-Argyle Station, Inc. and WCVB TV have assented to this motion by counsel, Steven J. Comen, Goodwin Proctor LLP, Exchange Place, 53 State Street, Boston, MA 02109.

WHEREFORE, Defendants petition that this action be removed.

Respectfully submitted,
DEFENDANTS, PAUL F. EVANS, JAMES
WYSE, MICHAEL PRIMM, JOHN A.
MARTEL, WAYNE ROCK, GARRETT
MITCHELL & CHARLES HARDY

Merita A. Hopkins
City of Boston Corporation Counsel
By their attorney,

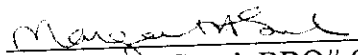

Margaret H. Sanel BBO# 648701
Assistant Corporation Counsel
City of Boston Law Department
Room 615, Boston City Hall
Boston, Massachusetts 02201
(617) 635-4936

VERIFICATION

I, Margaret H. Sanel, hereby swear under the pains and penalties of perjury that
the statements of fact in the petition are true and correct to the best of my knowledge,
information and belief.

Respectfully submitted,
DEFENDANTS, PAUL F. EVANS, JAMES
WYSE, MICHAEL PRIMM, JOHN A.
MARTEL, WAYNE ROCK, GARRETT
MITCHELL & CHARLES HARDY

Merita A. Hopkins
Corporation Counsel
By their attorney,


Margaret H. Sanel BBO# 648701
Assistant Corporation Counsel
City of Boston Law Department
Room 615, Boston City Hall
Boston, Massachusetts 02201
(617) 635-4936

CERTIFICATE OF SERVICE

I, Margaret H. Sanel, hereby certify that on this date I served a copy of the foregoing documents upon: Leon Robinson (A-22594), Old Colony Correctional Center, Bridgewater, Massachusetts 02324 and Stephen J. Comen, Esq., 53 State Street, Boston, MA 02109.

5/21/04
Date

Margaret H. Sanel
Margaret H. Sanel